IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

WEDNESDAY, THE TWENTY NINTH DAY OF JUNE
TWO THOUSAND AND FIVE

P R E S E N T

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 13846 of 2005

Between:

P. Satyanarayana, S/o. Chinnaiah,
R/o. Chintapally Village, Post & Mandal, Vishakapatnam District.

..... PETITIONER

A N D

1 The Sub Divisional Forest Officer, Narsipatnam, Vizag District.
2 The Conservator of Forest, Vizag, Vizag District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ particularly one in the nature of Writ of Mandamus, to call for the records relating to the issuance of the impugned proceedings D.O. Rc.No. 150/04-05 KDP dt. 18-3-2005 and declare it as highly illegal, unconstitutional, against the principles of natural justice, equity and fair play and prays to set aside the same and pass such order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.CH.GANESH

Counsel for the Respondents: GP FOR FORESTS

The Court made the following at the admission stage : (Order follows 2nd page)

O R D E R

This writ petition is filed questioning the impugned proceedings in DO.RC.No.150/04-05 KDP dated 18-3-2005 issued by the first respondent directing the petitioner to pay an amount of Rs.70,944-00 towards 'C' fees and on payment of the said amount the van bearing Regdn.No.AP31-U 7271 and seized produce (45 nos.) teak size containing 2.769 cmt.

The facts of the case are that on 29-1-2005 at 5:30 a.m., the staff of KD Peta Range have detected a Eicher van bearing Regdn.No.AP31-U 7271 carrying (45 nos.) teak produce consisting of 2.769 Cmt., valued at Rs.70,944/- which was brought from Chintapalli village and detected the offence at Bhimavaram check post of KD Peta beat without any valid documents. The Dy.Forest Range Officer KD Peta has conducted a panchanama in the presence of mediators and recorded the statements.

The petitioner is the owner of the seized van bearing Regdn.No.AP31-U 7271, which was involved in forest offence vide Proceedings DO.RC.No.150/04-05 KDP

dated 18-3-2005 of the first respondent. The petitioner submits that he purchased the aforesaid van after obtaining loan amount and that he is not aware of the fact of illegal transportation teak. He purchased the said van for transportation of Gummadi fruits from Chintapalli to Rajahmundry on hire basis.

On the other hand, the said van was used for illegal transportation of 45 teak to Rajahmundry. Moreover, the owner of the van has admitted that he is the owner of teak, which was transported in the offending vehicle before the Forest Range Officer, who in turn submitted his report to the Divisional Forest Officer, Narsipatnam. Though it was considered by the Divisional Forest Officer that the petitioner herein is innocent. However, through DO.RC.No.150/04-05 KDP dated 18-3-2005, the petitioner requested to impose a compounding fee for the said offence.

Considering the material placed on record, the first respondent examined the matter with reference to the record of enquiry and held that it is a clear case of smuggling of forest produce in the vehicle without valid documents and it is an offence under section 44 of AP Forest Act, 1967 read with Rule 4 of AP Forest Produce Transit Rules, 1970. Questioning the said order, the petitioner preferred an appeal on 06-5-2005 before the appellate authority but the appellate authority has not passed any order. Therefore, the petitioner filed this writ petition.

Considering the facts and circumstances and without going into the merits or otherwise, I deem it appropriate to direct the appellate authority to consider and dispose of the appeal filed by the petitioner within four weeks from the date of receipt of a copy of this order and pass appropriate orders on merits and in accordance with law after affording reasonable opportunity to the petitioner to putforth his grievance.

With the above direction, the writ petition is disposed of. No costs.

JUNE 29th, 2005. ----------

I S L. ELIPE DHARMA RAO, J.

To

1 The Sub Divisional Forest Officer, Narsipatnam, Vizag District.
2 The Conservator of Forest, Vizag, Vizag District.

3 Two CCs to the Govt.Pleader for Forest, High Court Buildings, Hyderabad.

4 One CC to Mr. CH.Ganesh (2102), Counsel for the Petitioner.

5 Two CD files.